

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7012 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HABIBBHAI JUMABHAI JAM

Versus

STATE OF GUJARAT

Appearance:

MR PS CHAMPANERI for Petitioner

MR UA TRIVEDI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/11/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged impugned order of detention of his mother-in-law viz. Noorbai Sulemanbhai, aged 64 years, dated 26/08/96.

2. It appears from the grounds of detention that there are seven cases registered against the detenu under the provisions of Bombay Prohibition act, 1948.

3. The order of detention has been challenged on number of grounds. However, Mr. Champaneri, learned counsel for the petitioner, has pressed only one contention that there was an undue and unreasonable delay in passing the order of detention by the detaining authority. He has invited my attention to para-7 of the petition. It is stated that the sponsoring authority forwarded the proposal to the District Magistrate on 20/04/1996 and thereafter, the police authority had verified the statements of the witnesses and had forwarded the same to the District Magistrate as back as on 23/04/96 and after verification of the statements, the sponsoring authority again forwarded a proposal to the District Magistrate on 24/04/96. It is also stated that the District Superintendent of Police forwarded the proposal again on 1st July 1996 for detaining the detenu. The detaining authority passed the order of detention on 26/08/1996 i.e. after a delay of about four months.

4. In spite of the fact that the rule was made returnable by the order of this Court dated 20th September 1996, no reply has been filed by the detaining authority explaining the delay. Thus, following the law laid down by the Apex Court in Pradeep Nilkantha vs S.Ramamurthi AIR 1994 SC 656, the order of detention is vitiated only on the ground of delay.

5. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention is quashed and set aside. The detenu - Noorbai Sulemanbhai shall be released forthwith, if she is not required in any other case. Rule is made absolute accordingly.

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